

Consider These Tax Issues



How is property divided at divorce in Texas?

Texas is a community property state. This means that most property acquired during the marriage is owned jointly by both spouses and is divided upon divorce. Texas law provides for the possibility of proving property as your separate property by tracing it with "clear and convincing evidence".



Examples of community property may include:

- Wages earned by either spouse during the marriage
- Home and furniture purchased during the marriage
- Mortgages and the family home

Examples of separate property may include:

- Property that was owned by a spouse prior to marriage
- Inheritances acquired during marriage, if held separately
- Gifts to either spouse
- Personal injury proceeds

Keep in Mind:

The community property aspect of settling property during a divorce will only be relevant if you and your spouse end up in divorce court. If the two of you are able to come to an agreement about how property and debt are distributed and divided during your divorce, it doesn't matter how property is split according to law. In other words, the more willing and able you are to negotiate your own divorce settlement, the less likely the courts will be to tell you how it should be handled.

Will I be eligible for alimony?

Alimony in Texas is known as "spousal maintenance". To be eligible for these kind of payments, the person seeking compensation must:

- Have been married for 10 years or more
- Be incapable of becoming self-sustaining because of lack of education, the necessity of caring for a disabled child, or any form of disability
- Alternately, anyone who has been the victim of domestic abuse can apply for spousal maintenance

The court can order maintenance to continue from 5 to 10 years, depending on the length of your marriage.

What are the rules about child support in Texas?



Like all states, Texas requires both parents to support their children, even after a divorce. The amount of child support depends primarily on each parent's income and other resources, and how much time each parent spends with the children.

What are the rules about child custody in Texas?

Like all states, Texas courts begin with a presumption that it's best for a child to have frequent and continuing contact with both parents after a divorce. If possible, judges want to support joint custody arrangements.

So who claims the kids? You or your ex-spouse?

Child's Dependency

Generally, the custodial parent (or parent with whom the child lived the greater number of nights during the tax year) is entitled to claim the child as a dependent. However, the custodial parent may release the dependency exemption to the non-custodial parent by completing the appropriate IRS Form.

Child's Exemption

The parent who claims the child as a dependent is entitled to the child's tax exemption - which is actually a deduction from income.

Head of Household Filing Status

An unmarried taxpayer can claim the more favorable head of household, rather than single, filing status if the parent is the custodial parent and pays more than one-half of the cost of maintaining his/her home, which is a principal place of abode for more than one-half the year for that child.

Tuition Credits

This credit goes to whoever claims the child exemption.

Child Care Credit

This credit is available to the custodial parent. The child must be under the age of 13 and be a dependent of the parent. However, a special rule for divorced or separated parents provides that where the custodial parent releases the child's exemption to the non-custodial parent, the custodial parent would still qualify to claim the childcare credit.

Child Tax Credit

This credit is allowed for a child under the age of 17 and goes to the parent claiming the child as a dependent.



As you can see, there are numerous tax implications related to divorce. It is highly recommended that you consult our office for assistance with the preparation of your tax return.

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